

Title	Small Claims Proof of Service (revise form SC-104)
Summary	The optional small claims proof of service form would be revised to conform to recent legislation, make technical changes, and improve the form.
Source	Civil and Small Claims Advisory Committee
Staff	Cara Vonk, 415-865-7669, cara.vonk@jud.ca.gov
Discussion	<p>Optional Judicial Council form SC-104, <i>Proof of Service (Small Claims)</i> should be revised to do the following:</p> <ol style="list-style-type: none"> 1. Reorganize the “manner of service” (see item 4 on current form and item 5 on proposed form) to reflect more clearly the methods of substituted service and include the recent amendment to Code of Civil Procedure section 415.20 allowing substituted service to be made on a person apparently in charge at the usual mailing address of the person to be served, including a private post office box, if the party’s physical address is not known. 2. Delete “Subpena Duces Tecum” from the list of documents that are regularly served (item 1 on current form) because a separate form, <i>Small Claims Subpoena and Declaration</i> (form SC-107), which has a proof of service on the reverse of the form, was adopted for mandatory use effective January 1, 2000. 3. Conform to current Judicial Council forms format and style and incorporate some of the features of recently adopted <i>Proof of Service of Summons</i> (form POS-010) and recently approved family law <i>Proof of Service of Summons</i> (form FL-115), including reorganized methods of substituted service. 4. Add an instruction at the beginning of the form to read <i>Information for the Small Claims Plaintiff</i> (form SC-150) before filling out the form. The information sheet provides detailed instructions on how to serve a claim. <p>The proposed revised form, the current form, and Code of Civil Procedure section 415.20 is attached for reference.</p>
	Attachments

PARTY <input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT (Name, street address and mailing address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY DRAFT 6 3/15/04
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF(Names): _____ DEFENDANT(Names): _____	CASE NUMBER: _____
PROOF OF SERVICE (SMALL CLAIMS)	Ref. No. or File No.: _____

(Read Information for the Small Claims Plaintiff (form SC-150) for instructions before you fill out this form. Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the following:
 - a. ☐ Plaintiff's Claim and Order (form SC-100)
 - b. ☐ Defendant's Claim (form SC-120)
 - c. ☐ Order of Examination (☐ form SC-134 ☐ form AT-138, EJ-125) (Personal service by a registered process server, sheriff, marshal, or person specially appointed by the court—Code Civ. Proc., § 708.170.)
 - d. ☐ Other (specify documents): _____
3. a. Party served (specify name of party as shown on documents served): _____
 b. Person served ☐ party in item 3a ☐ other (specify name and relationship to the party named in item 3a): _____
4. Address where the party was served): _____
5. I served the party (check proper box):
 - a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☐ **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2a, b, or d with or in the presence of (name and title or relationship to person indicated in item 3b.): _____
 - (1) ☐ **(business or public entity)** a person at least 18 years of age apparently in charge of the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.

PLAINTIFF:	CASE NUMBER
DEFENDANT:	

6. **Person who served papers**

- a. Name:
- b. Address:
- c. Telephone number:
- d. **The fee** for service was: \$
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
 - (i) ☐ Employee or independent contractor.
 - (ii) Registration No.:
 - (iii) County:

7. ☐ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

8. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date:

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

PARTY <input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT (Name and Address): TELEPHONE NO.:					FOR COURT USE ONLY <i>Current form</i>
NAME AND ADDRESS OF COURT:					
PLAINTIFF(S): DEFENDANT(S):					
PROOF OF SERVICE (Small Claims)	HEARING DATE:	DAY:	TIME:	DEPT./DIVISION:	CASE NUMBER:

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the following:

- ☐ Plaintiff's Claim ☐ Order of Examination ☐ Other (specify):
☐ Defendant's Claim ☐ ~~Subpoena Duces Tecum~~ *Subpoena and Declaration (SC-107)*

2. a. Party served (specify name of party as shown on the documents served):

b. Person served: ☐ party in item 2.a. ☐ other (specify name and title or relationship to the party named in item 2.a.)

3. By delivery ☐ at home ☐ at business

- a. date:
 b. time:
 c. address:

4. Manner of service (check proper box):

- a. ☐ **Personal service.** I personally delivered to and left copies with the party served. (C.C.P. 415.10)
 b. ☐ **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person to be served at the place where the copies were left. (C.C.P. 415.20(a))
 c. ☐ **Substituted service on natural person, minor, incompetent, or candidate.** By leaving copies at the dwelling house, usual place of abode, usual place of business, or usual mailing address other than a U. S. Postal Service post office box of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person to be served at the place where the copies were left. (C.C.P. 415.20(b))
 d. ☐ **Date of mailing:**

From (city):

Information regarding date and place of mailing is required for services effected in manner 4.b. and 4.c. above.
 Certified mail service may be performed only by the Clerk of the Court in small claims matters.

5. Person serving (name, address, and telephone number):

- a. **Fee** for service: \$
 b. ☐ Not a registered California process server
 c. ☐ **Exempt** from registration under B&P Section 22350(b)
 d. ☐ **Registered** California process server
 1. ☐ Employee or independent contractor
 2. **Registration Number:**
 3. **County:**

6. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 7. ☐ I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

Date:

(SIGNATURE OF SERVER)

§415.20. Service by Leaving Summons and Complaint at Office or Home of Person Being Served, and Mailing Copy to Person Being Served.

(a) In lieu of personal delivery of a copy of the summons and [1] complaint to the person to be served as specified in Section 416.10, 416.20, 416.30, 416.40, or 416.50, a summons may be served by leaving a copy of the summons and [2] complaint during usual office hours in his or her office or, if no physical address is known, at his or her usual mailing address, other than a United States Postal Service post office box, with the person who is apparently in charge thereof, and by thereafter mailing a copy of the summons and [3] complaint [4] by first-class mail, postage [5] prepaid to the person to be served at the place where a copy of the summons and [6] complaint were left. When service is effected by leaving a copy of the summons and complaint at a mailing address, it shall be left with a person at least 18 years of age, who shall be informed of the contents thereof. Service of a summons in this manner is deemed complete on the 10th day after [7] the mailing.

(b) If a copy of the summons and [8] complaint cannot with reasonable diligence be personally delivered to the person to be served, as specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy of the summons and [9] complaint at [10] the person's dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post [11] office box, in the presence of a competent member of the household or a person apparently in charge of his or her office, place of business, or usual mailing address other than a United States Postal Service post office box, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint [12] by first-class mail, postage [13] prepaid to the person to be served at the place where a copy of the summons and [14] complaint were left. Service of a summons in this manner is deemed complete on the 10th day after the mailing. **Leg.H.** 1969 ch. 1610, operative July 1, 1970, 1989 ch. 1416, 2003 ch. 128 (AB 418).

§415.20. 2003 Deletes. [1] of the [2] of the [3] of the [4] (by [5] prepaid) [6] of the [7] such [8] of the [9] of the [10] such [11] office [12] (by [13] prepaid) [14] of the

Ref.: Cal. Fms Pl. & Pr., Ch. 361, "Mechanics' Liens," Ch. 367, "Partition," Ch. 518, "Service of Summons and Papers"; W. Cal. Pro., "Actions" §§926-928, 985; Rutter Civ. P. Before Trial, §§82-91; MB Prac. Guide: Cal. Pretrial Proc., 8.07, 8.14, 8.21, 8.33, 8.36, 8.40, 8.50, 8.51, 8.68.

§415.95. Service on Business Organization by Leaving Summons and Complaint and Mailing Copy; When Manner of Service Invalid.

(a) A summons may be served on a business organization, form unknown, by leaving a copy of the summons and complaint during usual office hours with the person who is apparently in charge of the office of that business organization, and by thereafter mailing a copy of the summons and complaint by first-class mail, postage prepaid, to the person to be served at the place where a copy of the summons and complaint was left. Service of a summons in this manner is deemed complete on the 10th day after the mailing.

(b) Service of a summons pursuant to this section is not valid for a corporation with a registered agent if the service of process listed with the Secretary of State. **Leg.H.** 2003 ch. 128 (AB 418).